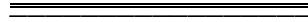
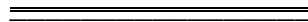


The Bill Blackwood Law Enforcement Management Institute of Texas



The Use of Body-Worn Cameras by Law Enforcement for Evidence, Evaluation and Training



A Leadership White Paper Submitted in Partial Fulfillment Required for Graduation from the Leadership Command College



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ABSTRACT

In today's American society, law enforcement officers are being scrutinized more now than ever before. Law enforcement officers responding to calls of service sometimes find themselves involved in a use of force situation or officer involved shooting. In many of these cases, society wants to know what happened and why. In some instances, citizens will actually record the incident and post it live on the internet or show it later on social media. Law enforcement officers and agencies in general find themselves backtracking and trying to defend themselves in their actions. Society wants law enforcement to be transparent and accountable. Today, the body-worn camera has come to the forefront in law enforcement because it is mobile and not static. A law enforcement officer can be issued a body-worn camera to wear on duty, thereby enabling the officer to video record interactions with those he/she comes into contact with. This will provide that transparency, which will help restore the trust in society with law enforcement officers across the country. The videos from these cameras can be used for evidentiary purposes, whether against a suspect or an officer. They can be used to refute complaints and also put the person being videoed on notice that they are being recorded. They can be used as an evaluation tool to assist law enforcement supervisors in assessing their officer's performance. If an officer is in need of training, then the video can be used to show the officer his/her deficiencies. Therefore, all law enforcement officers should wear body worn cameras for evidentiary, evaluating, and training purposes.

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INTRODUCTION

Today, in the 21st Century, technology is growing rapidly. This includes everything from cellular (smartphones) telephones with video cameras, to social media and the internet. Law enforcement itself has not been immune to technical growth either, and it has seen its own fair share of growing pains. In today's society, anyone with a cellular telephone video camera can upload live stream video to social media for the entire world to see within seconds. Nowadays, anything is subject to being video recorded or photographed and uploaded to the internet prior to the incident or event ending. Sometimes these occasions often have an adverse effect on law enforcement, as it tries to protect and serve society as a whole. In defense, law enforcement finds itself trying to keep up with this ever changing and extremely rapid-growing technology. One technology that has been brought to the forefront is video surveillance recording devices, most notably known as the "Body-Worn Camera" (BWC). Several local, state, and federal law enforcement agencies across the country have begun to utilize this technology.

Video surveillance technology is nothing new to law enforcement or to society, for it has been around and used for decades. The most common and visible use of law enforcement video surveillance is the police patrol unit in-car video camera system or often referred to as the dashboard camera. Almost every law enforcement agency in the country has or is using an in-car video recording system. This technology has been in use since the late 20th Century, and it has been a significant tool to document the facts surrounding an event (International Association of Chiefs/U S Department of Justice, 2004). Citizens are most familiar with the in-car camera videos that involve police

officers making traffic stops of suspected driving while intoxicated (DWI) drivers. Citizens have gotten to see firsthand the interaction of the officer and the drunk driver. Multitudes of these videos have been shown on many police reality-type television shows for entertainment purposes. There are several incidents where the intoxicated driver can barely stand up and sometimes has to use the side of his/her vehicle to retain his/her balance. Consequently, on some occasions, the driver is extremely inebriated to the point that the driver cannot sustain his/her balance and falls over. These videos clearly show the evidentiary value of having police video recordings of suspects committing crimes for court purposes. "Driving While Intoxicated" videos have set precedence across the country. Nowadays, it is virtually impossible to convict a drunk driver of driving while intoxicated without an in-car camera video. District attorneys' offices and the defense lawyers find driving while intoxicated videos as a crucial and valuable piece of evidence in criminal and civil cases. Citizens seek the ability to witness firsthand what the alleged drunk drivers did themselves, not just hear the testimony of the arresting officer. They want to corroborate the intricate details and the allegations that are presented before them, ensuring the aptness of the punishment.

These video recordings are not only significant for court purposes as pieces of evidence, but they have been used to evaluate officers. Videos can be viewed by the supervisor to see how the officer is performing his/her job. It allows the supervisors to observe if the officer is within departmental policies and guidelines. If the officer appears to require additional training, then the video can be used to show the officer his/her deficiencies and corrective action can be taken.

As previously stated, video recordings obtained from these devices have been used for evidentiary purposes, evaluating officer actions, and finally as training tools. Now through technological advancement, the body-worn camera is starting to prove to be a crucial and valuable tool, just as the in-car camera system is. Therefore, all law enforcement officers should wear body worn cameras for evidentiary, evaluating, and training purposes.

POSITION

It appears today in law enforcement that body-worn cameras may actually play an even more significant role than its counterpart, the in-car video camera system. They are not static like the in-car video camera system. They are attached to the law enforcement officer, either on his/her uniform, face, or headgear. This makes the officer mobile and allows the officer the capability to record wherever he/she goes. These cameras capture recordings that in days past were only dreamt of. Just like the in-car camera systems, the body-worn camera videos can be used for evidentiary purposes, evaluating officer actions, and as training tools. At the end of each shift, the officer has the ability to download the video and store it on an evidentiary storage server or cloud site for future use. It can be saved on the storage device for as long as the law enforcement agency desires and that depends upon the laws governing media storage and evidence within the agency's jurisdiction.

Body-worn cameras should be used because members of society today have an increased lack of trust in law enforcement as a whole. Since the civil rights movement in the 1960's, police officers have been seen clashing with members in society and many incidents have been captured on video and exposed to the world. Consequently, there

is a stigma within society that misconduct (brutality, dishonesty, and corruption) permeates within law enforcement, but the reality is only 1% of all officers commit misconduct at any given time on any given year (California Innocent Project, 2016). Over the past few decades, many officers have found themselves involved in use of force (UOF) incidents, which sometimes include officer-involved shootings (OIS). In many cases, the suspect sustains severe injury or even death. Some of those incidents have been caught on video by other citizens' video recording the incident with their personal cellular telephone video cameras or camcorder recording devices. One well-known incident captured on video was the beating of Rodney King in March 1991 in Los Angeles, California by Los Angeles Police Department officers. A little over a year later, those officers were acquitted, which sparked rioting in the streets of Los Angeles. As a consequence, several people died, some were hurt and others were arrested. The video depicting the beating of Rodney King to the world played a significant role in instigating the riots (Dennis, 2008). To illustrate its impact to society, the video is still being shown around the world today.

Jump forward 25 years; many law enforcement agencies have embraced wearing body worn cameras to record their interactions with citizens. Approximately 25% have begun using body worn cameras and 80% of the remaining agencies are assessing the possibilities of fielding them (Freund, 2015). The New York Police Department (NYPD) have field tested body worn cameras and have recently been ordered by the United States District Judge, Shira Scheindlin (now retired), to use them. The court found that the New York Police Department's "Stop and Frisk" practice was

violating minority's rights; therefore, the court felt recording those interactions with minorities would help alleviate some of those issues (Shallwani, 2016).

The catalyst to this phenomenon appears to be caused by several controversial deaths of African Americans by law enforcement officers. In 2014, Michael Brown was shot and killed by a Ferguson Police Department officer in Ferguson, Missouri. Michael Brown's death hastened the usage of the body-worn cameras around the country, thereby bringing their utilization to the forefront. In this way, their deployment was a way of police accountability and police reform (Joh, 2016). If nothing else, it would give law enforcement administrators an additional tool to aid them in their efforts to protect and serve our communities, including policing their own officers. The use and deployment of body worn cameras is so new, that there is much more to learn and understand. New York Police Commissioner, William Bratton, reiterated by saying this new technology of body-worn cameras has many questions yet to be answered (Shallwani, 2016).

Simultaneously, citizens are wearing similar body-worn cameras or devices to video record law enforcement officers. This new type of opposed video recording has been termed as "sousveillance," which derives its meaning from two French words "sous" which means "below" and "veiller" which means to watch (Mann, Nolan, Webb, 2003). Mann, Nolan and Wellman stated that "Sousveillance is a form of reflectionism, a term invented by Mann (1998) for a philosophy and procedures of using technology to mirror and confront bureaucratic organizations" (p.333). Undoubtedly, there are some citizens within society who are critical of the government (big brother) and law enforcement agencies. That is why within the American social struggle, video surveillance and sousveillance have been pushed to the forefront, in an attempt to

chronicle the truth of events and provide unbiased evidence to hold those responsible and accountable for their actions.

In addition, body worn cameras should also be used to help alleviate or refute officer complaints. Law enforcement as a whole has found itself defending its actions on a regular basis. Anyone can turn on a television today and watch the news depicting an officer involved in some kind of incident, regardless of its nature. It is not uncommon for the news media to also play video clips of citizens complaining about police misbehavior or misconduct. Unfortunately, most of the time, those videos are only a minute fraction of the actual events; only showing the highlights of what transpired. These broadcasts generally show the officer's response or action in the situation in an unfavorable way. Rarely do they show a video in its entirety, but merely leading up to the final outcome. By deploying body-worn cameras on officers in the field, it places citizens and officers alike "on notice" that they are being monitored and recorded. Therefore, when an officer interacts with someone, such as a witness, complainant or suspect, they are aware that others could later watch and listen to their interactions with the officer. To prove this point, in 2012 and 2013, there were a few agencies doing tests and evaluations on fielding body worn cameras. One agency, the Rialto Police Department in Rialto, California conducted one such test/evaluation. They performed a study where one shift wore HD (high definition) body-worn cameras and the other did not. The one in which wore the camera was called, "The Experimental Shift," and the other was called, "The Control Shift." The results were outstanding and very significant. "The Experimental Shift's" results indicated that citizen's complaints on officers

diminished by a breathtaking 87.5% and use of force (UOF) incidents decreased by an astounding 59% (Garrison, 2015).

As stated previously, now some agencies across the country have started deploying body-worn camera. In addition, it seems that officers adjust to them pretty well, thought just as they did with the patrol unit in-car video camera, it just took time to get used to. The reception within one department seems to be very well. Chief Jeff Halstead of the Fort Worth Police Department was asked if it was worth having the body-worn cameras. He said, "To date our officer-worn camera systems have saved four officers their jobs, and have prevented two officers from going to an indictment phase on a use of force" (Griffith, 2014, p. 35). Basically, it is allowing law enforcement agencies to become more transparent to the public and simultaneously holding officers personally accountable of their actions.

As a result, a large number of citizens are requesting body-worn camera videos from agencies across the country via open records. Therefore, with the advent and deployment of these body-worn cameras, some questions of concern might be answered and false allegations refuted. The best outcome would be the vindication of the officers' actions by proving they were legal and justified. As a result, it would be the beginning of the restoration process with those citizens who have lost faith and confidence in democratic society and law enforcement at large.

COUNTER POSITION

Nonetheless, there is an extreme concern about fielding body worn cameras, because of the large amount data collection and storage issues. It seems there is more at stake than merely purchasing body-worn cameras, issuing them out, using them, and

downloading and saving the video recordings for evidence. These cameras “collect video data—lots of it—and as a result, civil liberties groups and scholars have raised questions about increased government surveillance” (Joh, 2016, p. 133). There is also concern on how long to retain the videos and who can access the videos, like a court or attorney through discovery or someone through open records requests. All of these concerns regarding data collection and storage are a nightmare to some agencies. To exacerbate this quandary is the initial cost of the cameras, and the ongoing annual costs of up keep and the ongoing storing of general and evidentiary video data.

It would behoove each agency to make a good assessment of what is required in the very beginning. Governmental organizations, whether it is federal, state or local, all operate on an annual budget that is tax-based. Due to these circumstances, one of the first things to consider is the type of body-worn camera, its data storage, and data transfer method, its field of view, the resolution, and its deployment and cost (Griffith, 2014). With that information, an agency will be able to determine how much to budget to implement the body worn camera program within their department. Video resolution and the frame rate (number of frames per second) of each camera will determine how much storage is needed per video. Another aspect that will govern how much data storage is needed is when the body camera is turned on. A department has the option of turning on the camera at the beginning of the shift and leaving it on during the shift, or it can be turned on by the officer through officer discretion, or it can be automatically turned on simultaneously with the in car video camera system. Obviously, the largest data storage concern will involve cameras running for the duration the entire shift. Over time, these will be monstrous data files, and the agency will require a very large storage site

(several to a few hundred terabits), depending on the number of body worn cameras fielded. An agency needs to find out how important a file is and how long it has to be kept based upon federal and state laws. Arvidson (2015) stated, "A 2015 Quantum survey found that organizations are keeping a lot of inactive data (files untouched for six months or more) on their most expensive storage infrastructure; as much as 40 percent of data living inactive"(pp. 46-47).

Furthermore, an agency has to write a policy and procedures guideline, which will govern all aspects of the use of the body-worn camera, the proper method of downloading its digital data, and how and where to store it, as well as purging procedures. It should also cover all records requests, to include citizens making open records requests. The policy should cover the redacting process in order to protect someone's privacy; thereby, fulfilling federal law requirements and being transparent to society at the same time (Freund, 2015).

Today, there are a number of ways to combat the issue of storage. However, the first thing a law enforcement agency should do is meeting with their personal information technology (IT) person to receive their input on what would be the best practice for them. The main issue, as far as storage is concerned, is the connectivity needed to upload the data, the amount of storage, and if it is an onsite storage server or a cloud based storage server. Once all of that is known, then the IT person can give them a good idea on the cost and then it can be properly budgeted (Griffith, 2014).

One solution is for agencies to seek federal aid in the form of a grant. In 2015, President Barrack Obama vowed to put 50,000 body worn cameras on the streets in three years, and the Department of Justice has been awarded a little over 23 million

dollars to make that vow a reality (Department of Justice Office of Public Affairs, 2015). If an agency is interested in seeking more information about this program that the president has implemented they can go to <http://www.bja.gov/bwc/pdfs/BWCPIP-Award-Fact-Sheet.pdf>. Basically, the grant requires an agency to split the cost with the government, and if they are willing, the agency can “purchase equipment and require that applicants establish a strong implementation plan and a robust training policy before purchasing cameras. Each agency awarded a grant is responsible for developing a plan for long-term storage, including the cost of storing data” (Department of Justice Office of Public Affairs, 2015, para. 3).

As aforementioned, several agencies across the country have started to implement body worn cameras. A concern that has risen with the fielding of body-worn cameras is if the full field of view (FOV) of an officer is being observed and recorded. The body-worn camera is a fixed recording device that is generally affixed on an officer's shirt, and if and when the officer turns his/her head then the camera will not pick up that particular view. An additional factor that must be considered is the quality of camera an agency purchases; whether it is standard digital or high definition, the field of view of the camera, and if it is daytime or nighttime. The body-worn camera would need to be equipped with either a low-light system or have infrared capabilities. Another important aspect is the placement on the uniform.

A body camera records without emotion or feelings. It is merely a visual recording of whatever is placed within its lens. But when a person observes something, the brain processes it and evaluates the vision with reason. It is critical that society understands there is a difference between a machine recording something and

what an officer is observing during the same event. There was a study conducted, and it found that the standard field of view for a body-worn camera is from around 95 degrees to around 170 degrees, but a human's glance, where information is extracted, is around 50 to 60 degrees under basic stress (Geis & Blake, 2015). The United States Supreme Court ruled in case *Graham v. Connor* by stating, "reasonableness must include the officer's perception of the event during tense, uncertain, and rapidly evolving events, and not through 20/20 hindsight" (Geis & Blake, 2015, pp. 18-19). Clearly a machine does not have human emotions, but it can record the field of view in which it is facing. It cannot and will not have what the United States Supreme Court deemed significant and that is 'perception.' When people get in situations and become stressed, it is well-known that they sometimes get tunnel vision and lose sight of things within their peripheral vision. Often (without realizing), they only see what they are focusing on. People have even reported that in high-stress events, things seem to slow down as if in slow motion. An agency must understand that it is true a body-worn camera will not record exactly what the officer is seeing or perceiving, but it will give a general view of what transpired, and that is priceless.

RECOMMENDATION

Based upon the above facts, it is recommended that all law enforcement officers should wear body-worn cameras for evidentiary, evaluation, and training purposes. Over the past half century, the American social fabric has begun to unravel. It seems every day that more and more citizens are losing their faith and trust in law enforcement. This trend has to stop; law enforcement must do its part by implementing body worn cameras to help mend the torn American social fabric. Law enforcement

officers are the guardians and enforcers of the United States Constitution and Bill of Rights through federal, state, and local laws throughout the country. By utilizing the body-worn cameras, law enforcement is made more transparent to American society. The body-worn cameras are not static and move with the officer, making it a much more valuable tool than the in-car video recorder. As a result, studies have shown that the use of body-worn cameras will reduce use of force (UOF) incidents and citizen complaints, which are win-win situations for all parties involved. There is concern on implementing a body-worn camera program that comes with vast storage issues. This includes records retention, discovery, and open records requests, and how to redact personal information to comply with federal and state privacy laws. This obstacle can be overcome with due diligence. Once an agency has determined the cost, then a proper budget plan can be proposed to its governing body and/or it can apply for a federal grant, making it financially feasible. A law enforcement agency can write policies and procedures governing its storage concerns, such as records requests and redaction procedures, to ensure they are within federal and state privacy laws. Finally, it is necessary to understand that a body-worn camera is merely a recording device that records without emotion or perspective; it can never take the place of what officer an officer sees, feels, smells, hears, or touches. It does, however, provide a visual picture of what transpired within its field of view, making it a very valuable tool. In conclusion, body-worn cameras will probably be seen as the catalyst that helped mend the torn relations within society and law enforcement by making law enforcement more transparent and accountable to society.

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